

ORIGINAL

DOCKET FILE COPY

**Small Business PCS Association**  
96 Hillbrook Drive Portola Valley, CA 94028  
415-851-1615 FAX: 415-851-1870

RECEIVED

NOV 12 1993

FCC MAIL ROOM

~~DOCKET FILE COPY~~

June 17, 1993

Ms. Donna R. Searcy  
Secretary  
Federal Communications Commission  
1919 M Street, N.W., Room 222  
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

RE: PP Docket No. 93-253 Ex Parte Presentations

Dear Ms. Searcy:

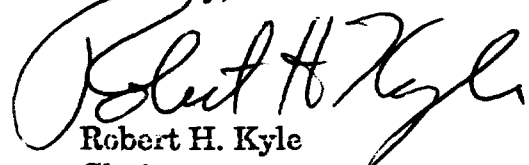
On October 29, 1993 I met with the following decision makers at the FCC:

Mr. Randy Coleman  
Evan Kwerel  
Marc Martin

Attached is a copy of the main issues discussed.

Please let me know if you have any questions.

Sincerely,

  
Robert H. Kyle  
Chairman

asure

No. of Copies rec'd  
List A B C D E



RECEIVED

NOV 12 1993

**Auction NPRM – Small Business Issues**

FCC MAIL ROOM

1. Set Asides for Small Business, Minority and Woman-Owned Businesses, and Rural Telco's (SWMR's). The proposal in the NPRM for a SWMR set aside of two frequency bands offers a major opportunity for the Small Businesses of the country. The FCC should resist efforts by large special interests to eliminate these set asides. A small business operating a single BTA service region can very effectively compete with large businesses operating larger service areas.

There will be a Common Air Interface standard for PCS, as there is for cellular, that will allow subscribers with both small and large companies to operate telephones anywhere in the United States. Nationwide roaming with seamless interconnection will be made available through more than five currently existing national networks. The basic building block of a PCS system is the region served by a single switch. In larger areas, up to 100,000 subscribers can be handled by a single switch. Economies of scale for larger areas are limited primarily to discounts associated with volume buying. This will be mitigated for small businesses by the formation of large buying cooperatives consisting of small businesses from around the country. (In the case of PCS, there will be a number of buying cooperatives, including one formed by the Small Business PCS Association.)

The argument that a 10 MHz frequency band is not adequate to establish an economically viable PCS system is simply not true. While a 20 MHz band is probably ideal, it is possible to establish a PCS system with 10 MHz that provides significantly more capacity than cellular (which has 25 MHz of spectrum). The reason for the higher capacity of a PCS system is substantially increased frequency reuse which is achieved by using the smaller PCS cells.

2. Financing for SWMR's.
  - a. Upfront Payment. The upfront payment of 2¢ per MHz per POP is a good idea since it will limit the participation of speculators without the resources to establish a PCS service to the public. However, the upfront payment should be refunded to a SWMR if he is later disqualified for any reason other than a flagrant violation of the rules. This will remove a major roadblock in obtaining financing for the Upfront payment.
  - b. 20% Payment. A payment equal to the difference between the Upfront payment and 20% of the license price, paid at the time of auction, is very onerous for small business. When arranging financing it is the first 20% that is hardest to obtain and the financing is of greatly reduced value if 20% must be paid in advance. It is recommended that for SWMR's the amount of this payment be reduced to 10% of the license price. Also, this payment should be refundable to a SWMR if he is disqualified so that investors from the financial community can be offered a reasonable protection for their investment.
  - c. SWMR Financing for Non-Set Aside Licenses. The same financing terms made available to SWMR's for the set aside licenses should also be available for any license acquired by a qualified SWMR.

d. **Payment Terms.** The payment term should be the life of the license, ten years. The first payment should not be due for two years and quarterly payments should be 0.5% of the license price until year five when the balance due will be amortized by equal payments through year ten.

3. **Sequence of Bidding and Issuance of Licenses.** In the sequence of auctioning and issuing licenses there should be no unfair advantage given to any class of license holder. For example, if all MTA's were auctioned before any BTA's, the MTA license holders would be given a substantial time advantage in introducing their PCS service to the public before the smaller company BTA license holders. Licenses should be auctioned in a sequence beginning with the largest Major Trading Area (MTA). After the largest MTA, its component Basic Trading Areas (BTA's) should be auctioned. Then the next largest MTA and its component BTA's, and so on. Licenses should be issued at the same time for each MTA and its component BTA's.
4. **Combined Bids.** While combined bidding may have some advantage for MTA's, it is certainly not appropriate for BTA's. For one reason this would transform BTA bidding into an auction for only big companies or very well heeled investors. For another, the possible permutations and combinations for all 491 BTA's would be staggering and would certainly delay the auction process. Combined bidding on either a frequency basis or geographic basis should not be allowed for BTA's.
5. **Definition of SWMR.** In order to qualify for a SWMR set aside it should be necessary to be a small business first. The intention of Congress was not to provide special treatment to large businesses that happened to be owned by women or minorities. (A separate standard involving number of access lines might be most appropriate for rural telco's.) As for the definition of a small business, we think that the most appropriate definition is in 13 CFR § 121, i.e., less than \$6 million in net worth and less than \$2 million in profit after tax for the past two years. However, the simultaneous size standard which must also be met is too high in that paragraph (at 1500 employees) and should be reduced to 200 employees.

For consortia bidding, 90% of the ownership should be SWMR's to qualify for a set aside. Furthermore, there should be no non-SWMR purchase options allowed to be in existence at the time of the auction that would bring the non-SWMR interest to greater than 90% within five years. For individual members of a consortia, each individual must meet the \$6 million net worth requirement for the consortia to be eligible for a SWMR set aside.

6. **Security Interest in License.** An important part of SWMR financing for infrastructure to build out a system will come from its vendors and equipment suppliers. In order to make this financing more available it is necessary to allow financing organizations to have a security interest in a license purchased at auction. This would provide the needed financing for SWMR's to acquire the required large infrastructure for implementing services like broadband PCS.